

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GERALD R. CARROLL,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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No. 4:21-CV-647-RLW

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Self-represented movant Gerald R. Carroll submitted a letter, dated June 2, 2021, in his closed criminal case, *U.S. v. Carroll*, Case No. 4:98-CR-351-RLW-1 (E.D. Mo.). The letter sought relief from judgment pursuant to *United States v. Booker*, 543 U.S. 2020 (2005). In the interests of justice, the Court construed the letter as a motion for relief from judgment, administratively terminated the motion, and opened the instant civil action under 28 U.S.C. § 2255. (ECF No. 1).

On June 11, 2021, the Court directed movant to inform the Court, in writing, if he consented to the characterization of his letter as a motion to vacate, set aside, or correct sentence under § 2255. (ECF No. 3). *See Morales v. United States*, 304 F.3d 764, 767 (8th Cir. 2002) (when a court *sua sponte* characterizes a filing as a § 2255 motion, the Court must provide movant with the opportunity to either consent to the classification or withdraw the filing). If plaintiff consented to the characterization, the Court further directed him to file an amended § 2255 motion on a Court-provided form. Movant was informed that if he failed to give his timely consent, this action would be dismissed without prejudice.

Plaintiff has not complied as directed, and the time for doing so has passed. Consequently, the Court will dismiss this action without further proceedings.

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

A handwritten signature in black ink that reads "Ronnie L. White". The signature is written in a cursive, flowing style.

RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 27th day of July, 2021.